

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANGEL FLORES, CESAR
HERNANDEZ, DEBORAH RIVERA,
LAURA LOZOYA and SALLY A.
MARTINEZ, Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

V.

JBM JANITORIAL MAINTENANCE,
INC., KRC FLOOR MAINTENANCE,
INC., VIRIDIANA GARCIA A/K/A
VIRIDIANA MARTINEZ, RAFAEL V.
MARTINEZ and CECIL M.
MARTINEX

Defendants.

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No. 4:18-cv-01263

JURY TRIAL DEMANDED

**PLAINTIFF'S UNOPPOSED PARTIAL MOTION TO
DISMISS AS TO FEWER THAN ALL PARTIES**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Plaintiffs Angel Flores, Cesar Hernandez, Deborah Rivera, Laura Lozoya and Sally A. Martinez (referred to as “Plaintiffs”) and, in accordance with FED. R. CIV. P. 41(a)(2), move to dismiss their claims without prejudice against Defendants JBM Janitorial Maintenance, Inc. and Viridiana Garcia a/k/a Viridiana Martinez. In support thereof, Plaintiffs would respectfully show the Court as follows:

I. Introduction

Plaintiffs filed a putative collective action lawsuit against JBM Janitorial Maintenance, Inc. (“JBM”), KRC Floor Maintenance, Inc. (“KRC”), Viridiana Garcia a/k/a Viridiana Martinez (“V. Garcia”), Rafael V. Martinez (“R. Martinez”) and Cecil M. Martinez (“C. Martinez,” collectively referred to as “Defendants”) on April 23, 2018, alleging that the Defendants violated the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201-219, (“FLSA”) by, among other things, failing to pay their employees the statutory minimum wage and overtime. (Pl.’s Compl. (Dkt. 1) ¶¶ 45 – 62.) Defendants JBM and V. Garcia have since filed for bankruptcy. (Dkt. 14 – 15). Accordingly, Plaintiffs’ respectfully request that the Court dismiss Plaintiffs’ claims without prejudice against Defendants JBM Janitorial Maintenance, Inc. and Viridiana Garcia a/k/a Viridiana Martinez.

II. Argument & Authority

A. Plaintiffs Request That the Court Dismiss Their Claims without Prejudice

Plaintiffs request that the Court dismiss their claims against JBM Janitorial Maintenance, Inc. and Viridiana Garcia a/k/a Viridiana Martinez without prejudice to refile. FED. R. CIV. P. 41(a)(2). Defendants are unopposed to this request and will not be prejudiced by the dismissal of Plaintiff’s claims against them. Accordingly, the Court should dismiss Plaintiffs’ claims against JBM Janitorial Maintenance, Inc. and Viridiana Garcia a/k/a Viridiana Martinez without prejudice to refile. FED. R. CIV. P. 41(a)(2).

III. Conclusion

For the foregoing reasons, the Court should dismiss Plaintiffs' claims against JBM Janitorial Maintenance, Inc. and Viridiana Garcia a/k/a Viridiana Martinez without prejudice to refiling. FED. R. CIV. P. 41(a)(2).

Respectfully Submitted,

MOORE & ASSOCIATES

By: _____

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with opposing counsel for JBM Janitorial Maintenance, Inc. and Viridiana Garcia a/k/a Viridiana Martinez regarding the relief requested in this motion and that she has indicated she is unopposed.



Melissa Moore

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June in the year 2018, I filed this motion with the Court's CM/ECF system which will send notification of such filing to all counsel of record.



Melissa Moore